

**REMARKS**

Applicants appreciate the consideration shown by the Office as evidenced by the Office Action mailed on May 18, 2004. In that Office Action, the Examiner rejected all pending claims: 1, 3-6, 8, 9, 15-23, 26, 28-31, 33-35, 40-43, 45, 47-49, 51, 52, 56-61, and 63-71. In this Response, Applicants have amended claims 1, 26, and 45; and have cancelled claims 8, 33, 52, and 63-70. Applicants respectfully request favorable reconsideration in light of the above amendments and the following remarks.

**1. Claim Rejections: 35 U.S.C. § 102****A. Darolia '813**

Claims 1, 3-6, 9, 15-22, 26, 28-31, 34, 40-42, 45, 47-49, 51, and 56-60 were rejected under 35 U.S.C. 102(e) as being anticipated by Darolia (US 6,558,813; hereinafter '813). Applicants respectfully traverse this rejection.

The Examiner states that the layer of alumina described in this reference as interposed between a substrate and a protective coating is considered a diffusion barrier. However, '813 fails to teach, suggest, or disclose a diffusion barrier comprising ruthenium, as is recited in amended independent claims 1, 26, and 45 of the present application. Applicants respectfully submit that these claims are therefore patentably distinct from this reference. Each of the remaining claims noted above depends from one of these independent claims and are thus allowable due to their dependency from an allowable base claim. Applicants respectfully request reconsideration of this rejection.

**B. Nagaraj et al. '323**

Claims 1, 3, 9, 15-20, 26, 28, 34, 35, 40, 45, 47, 48, 51, and 56-60 were rejected under 35 U.S.C. 102(e) as being anticipated by Nagaraj et al (US 6,627,323; hereinafter '323). Applicants respectfully traverse this rejection.

The Examiner states that the layer of alumina described in this reference as interposed between a substrate and a protective coating is considered a diffusion barrier. However, '323 fails to teach, suggest, or disclose a diffusion barrier comprising ruthenium, as is recited in amended independent claims 1, 26, and 45 of the present application. Applicants respectfully submit that these claims are therefore patentably distinct from this reference. Each of the remaining claims noted above depends from one of these

independent claims and are thus allowable due to their dependency from an allowable base claim. Applicants respectfully request reconsideration of this rejection.

C. Jackson et al. '894

Claims 63, 64, 69, and 70 were rejected under 35 U.S.C. 102(e) as being anticipated by Jackson et al (US 6,609,894; hereinafter '894). Each of these claims has been cancelled.

**2. Claim Rejections: 35 U.S.C. § 103**

The Examiner presented three separate combinations of references in rejecting claims of the present application under 35 U.S.C. § 103. Each combination consists of one of the 102(e) references described above ('813, '323, and '894), respectively combined with Spitsberg et al. (U.S. 6,306,524, hereinafter '524). Applicants respectfully traverse each of these rejections.

Subject matter that qualifies as prior art under section 102(e) does not preclude patentability under section 103(a) where the subject matter and the claimed invention were subject to an obligation of assignment to the same assignee at the time the invention was made. 35 U.S.C. § 103(c). Here, the primary references in each combination are section 102(e)-type references, and each is commonly assigned with the present application to the same assignee. Applicants respectfully submit that each of '813, '323, and '894 should not be considered as references for the purposes of determining patentability under section 103(a) because each qualifies for the exclusion provided under section 103(c).

No other reference or combination of references was applied under section 103(a), and thus Applicants respectfully submit that all of the claims rejected under this section are allowable. Favorable reconsideration is respectfully requested.

**3. Supplemental IDS**

Applicants enclose herein a supplemental Information Disclosure Statement that includes references cited in a European Patent Office search report. Applicants respectfully request consideration of these references by the Examiner in the present case.

**4. Conclusion**

In light of the remarks and amendments presented herein, Applicants believe that this serves as a complete response to the subject Office Action. If, however, any issues remain unresolved, the Examiner is invited to telephone the undersigned at the number provided below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul DiConza", written over a horizontal line.

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Attachment: Supplemental IDS